

IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

In Re: DHC REALTY, LLC, Debtor. Case No.11-30977-HCM

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DHC REALTY, LLC, CHOWAIKI HOLDINGS, LLC, EL PASO DHC ENTERPRISES, LLC, EL PASO DHC ENTERPRISES FAR EAST, LLC, EL PASO DHC ENTERPRISES WEST, LLC, and DAVID CHOWAIKI, Plaintiffs, v. Adversary No. 12-03012-HCM

ARMANDO ARMENDARIZ, YVETTE ARMENDARIZ, and HECTOR ARMENDARIZ, Defendants.

## **PLAINTIFFS' DAMAGES ANALYSIS**

TO THE HONORABLE H. CHRISTOPHER MOTT, U.S. BANKRUPTCY JUDGE:

Comes now, CHOWAIKI HOLDINGS, LLC, et al., Plaintiffs herein, and file this initial Damages Analysis in conformity with the Court's Scheduling Order entered on September 6, 2012, and would respectfully show the following:

1. Pursuant to the various claims asserted by Plaintiffs, Defendants are liable to Plaintiffs for \$702,312.00 in actual damages. Plaintiffs' expert, Douglas A. Little, C.P.A., C.V.A. has prepared a twenty page report identifying the various elements of Plaintiffs' damages. A Summary of Economic Losses is included as Exhibit 7 of that report and is attached hereto and incorporated herein by reference.

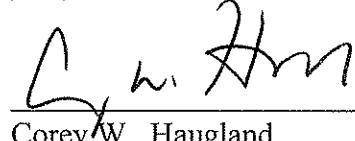
2. Plaintiffs seek exemplary damages against Defendants in an amount equal to one to three times the amount of the actual damages, as the Court deems appropriate.
3. Plaintiffs seek recovery for pre-judgment interest and post-judgment interest at the highest rates allowed under applicable law.
4. Plaintiffs seek recovery of their attorneys fees and costs through entry of judgment and for any subsequent appeals by Defendants from that judgment. Currently, Plaintiffs estimate that their attorneys fees and costs through entry of judgment will be \$125,000.00. Contingent awards of fees are sought at each level for any appeal. The specific amounts sought for each level of appeal and the hourly rates of the attorneys involved in this litigation are set forth in the Report of Corey W. Haugland which is being provided to Defendants' counsel contemporaneously with the filing of this pleading.

**SIGNED** this 30<sup>th</sup> day of November, 2012.

Respectfully submitted,

JAMES & HAUGLAND, P.C.  
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By:

  
Corey W. Haugland  
State Bar No. 09234200  
Jamie T. Wall  
State Bar No. 24028200  
Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I, Corey W. Haugland, hereby certify that on the 30th day of November, 2012, I electronically filed the foregoing Plaintiffs' Damages Analysis with the Clerk of the Court using the CM/ECF System, which will give notice of the filing of this instrument to:

Christopher R. Johnston  
Firth ♦ Johnston ♦ Martinez  
415 N. Mesa, Suite 300  
El Paso, Texas 79901

Sidney J. Diamond  
3800 N. Mesa, Suite B-2  
El Paso, Texas 79902



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Corey W. Haugland

**EXHIBIT 7****Summary of Economic Losses**

Gateway East Location	3/31/2012	12/31/2011	12/31/2010	12/31/2009	12/31/2008	Total
Cost of Sales	527	39,612	57,993	(24,486)	8,978	82,624
Sales Discounts	507	24,007	51,806	-	8,520	84,840
Management Labor & Benefits	-	-	-	-	-	-
Vending Income	2,639	12,707	19,688	-	-	35,034
<b>Total Economic Damages</b>	<b>3,673</b>	<b>76,326</b>	<b>129,487</b>	<b>(24,486)</b>	<b>17,498</b>	<b>202,498</b>
N. Desert Location	3/31/2012	12/31/2011	12/31/2010	12/31/2009	12/31/2008	Total
Cost of Sales	5,153	42,097	34,674	(969)	19,210	100,165
Sales Discounts	(0)	14,282	17,662	-	-	31,943
Management Labor & Benefits	-	-	-	-	-	-
Vending Income	(153)	5,848	23,299	0	-	28,995
<b>Total Economic Damages</b>	<b>5,000</b>	<b>62,228</b>	<b>75,635</b>	<b>(969)</b>	<b>19,210</b>	<b>161,103</b>
Zaragosa Location	3/31/2012	12/31/2011	12/31/2010	12/31/2009	12/31/2008	Total
Cost of Sales	10,665	27,559	28,961	8,944	11,083	87,212
Sales Discounts	1,593	39,474	77,749	94,650	37,087	250,553
Management Labor & Benefits*	10,362	8,189	-	-	-	18,551
Vending Income	4,309	13,031	19,577	-	-	36,918
<b>Total Economic Damages</b>	<b>26,930</b>	<b>88,254</b>	<b>126,287</b>	<b>103,594</b>	<b>48,170</b>	<b>393,234</b>
Total All Locations	3/31/2012	12/31/2011	12/31/2010	12/31/2009	12/31/2008	Total
Sales Discounts	2,100	77,763	147,216	94,650	45,607	367,336
Cost of Sales	16,345	109,269	121,628	(16,511)	39,271	270,001
Management Labor & Benefits	10,362	8,189	-	-	-	18,551
Vending Income	7,429	28,773	10,221	-	-	46,423
<b>Total Economic Damages</b>	<b>36,236</b>	<b>223,993</b>	<b>279,065</b>	<b>78,139</b>	<b>84,878</b>	<b>702,312</b>

\*Includes Payroll through Termination Date in May 2012